

**LEGISLATIVE SERVICES AGENCY  
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**MINUTES OF THE  
INDIANA CODE REVISION COMMISSION**

Tuesday, October 2, 2001  
Room 233, State House  
Indianapolis, IN 46204

**MEMBERS PRESENT:** Senator Luke Kenley, Chairman; Senator Sue Landske; Senator Samuel Smith; Representative Robert Behning; Representative Ralph Foley; Representative John Frenz; Representative Robert Kuzman; Ms. Heather Sewell, representing Secretary of State Sue Ann Gilroy; Mr. Dave Remondini, representing Chief Justice Randall T. Shepard; Chief Judge John T. Sharpnack, Indiana Court of Appeals; Ms. Jennifer Thuma, representing Attorney General Steve Carter; Ms. Priscilla Keith, representing Governor Frank O'Bannon.

**MEMBERS ABSENT:** Senator Anita Bowser; Mr. Gene Leeuw; Professor Emeritus William Harvey.

**STAFF PRESENT:** Mr. John Stieff, Director, Office of Code Revision; Mr. Craig Mortell, Deputy Director, Office of Code Revision; Ms. Rebecca Mortell, Deputy Director, Office of Code Revision; Mr. Tim Tyler, Recodification Editor and Senior Staff Attorney, Office of Bill Drafting and Research; Mr. Dick Sheets, Editorial Assistant, Office of Code Revision.

**I. CALL TO ORDER**

The meeting was called to order at 1:30 p.m. by Senator Kenley.

**II. INTRODUCTORY REMARKS**

Mr. John Stieff, Director of the Office of Code Revision of the Legislative Services Agency, reported that the recodification of Title 32 (property law) is nearly complete and that one additional Code Revision Commission meeting would be needed to review the final draft.

**III. ELECTION OF CHAIRMAN**

Representative Foley nominated Representative Kuzman to be the new chairman of the Code Revision Commission. The motion was seconded and adopted by consent. The members of the Commission were then introduced.

**IV. REVIEW OF MINUTES**

The Commission approved by consent the minutes of the Commission's last meeting on June 5, 2001.

**V. PROPOSED TECHNICAL CORRECTIONS BILL**

Mr. Craig Mortell, Deputy Director, Office of Code Revision, presented PD 3226, a revised draft of the 2002 technical corrections bill. Mr. Mortell directed the members' attention to the outline of the draft, which listed each SECTION in PD 3226 and explained the problem being corrected in each SECTION. He highlighted various types of problems being corrected, such as faulty internal references, faulty tabulation, and inconsistent use of terminology.

Mr. Mortell pointed out that PD 3226 corrects several "conflicts," i.e., instances in which two or three

acts that became law amended the same section of the Indiana Code in different ways. Mr. Stieff commented that the number of conflicts occurring in 2001 is attributable to the extraordinarily large number of bills that were not finalized until the very end of the session. (A potential conflict cannot be corrected through a Joint Rule 20 motion or other means until at least one of the bills involved is in final form.)

The Commission voted favorably on PD 3226, deciding to recommend the passage in the 2002 session of a technical corrections bill with the contents of PD 3226. In response to a comment from Mr. Stieff, the commission authorized the Office of Code Revision to submit proposed additions to the technical corrections bill at the Commission's next meeting if any additional technical problems suitable for resolution in the bill are brought to the attention of the Office of Code Revision.

## **VI. TITLE 32 RECODIFICATION**

Mr. Tim Tyler, LSA Senior Staff Attorney and Recodification Editor, distributed an updated Title 32 recodification outline for PD 3001 to the Commission. The update indicated in bold several new chapters that had been added to the outline since the last Commission meeting. Mr. Tyler explained that new chapters had to be added because some provisions in Title 32 did not "fit" in any chapter listed in the previous outline or some chapters had to be broken up into smaller chapters to avoid confusion.

Mr. Tyler presented several unresolved issues that are present in PD3001-2002, the first Title 32 recodification preliminary draft. After consideration, the Commission voted to address these issues as follows:

- ! Possible unconstitutional prohibitions on the rights of aliens to hold and convey property (Page 82): Leave in the recodification bill.
- ! Possible unconstitutional prohibition on appeal of court decision in certain eminent domain cases (Page 120): Leave in the recodification bill.
- ! 1949 transitional provision concerning eminent domain laws (Page 131): Remove from the recodification bill.
- ! Modernization of certain terms in the fence law (Pages 164-170): Leave "husbandmen" and "steam or interurban railroad" in the recodification bill but replace "skillful men" with "witnesses knowledgeable about fences" and replace "estrays" with "stray animals."
- ! Rephrase certain language in the mechanics' lien laws (Page 199). Retain language in the current law.
- ! Duplicative provision in the mechanic's lien law concerning lien recording (Page 207): Leave in the recodification bill.
- ! Duplicative provision in the mechanic's lien law concerning public improvements (Page 209): Remove from the recodification bill.
- ! Conflicting chapters concerning ejectment and quiet title (Page 235): Leave both in the recodification bill.
- ! Provision in quiet title law concerning disclaimer of property interests by defendants that does not reflect current case law (Page 238): Make no changes to the provision in the recodification bill.
- ! Conflicting provisions in landlord-tenant law concerning return of security deposits and modification of rental agreements (Page 285): Make no changes to the provisions in the recodification bill.
- ! 1915 application provision in the blacksmith's lien law (Page 319): Remove from the recodification bill.
- ! 1996 transitional provision in the unclaimed property act (Page 370): Remove from the recodification bill.
- ! Reference to nonexistent "unclaimed funds account" in the law concerning unclaimed money in possession of a court clerk (Page 371): Change reference to "abandoned property fund."
- ! Definition of "person" in law concerning property loaned to museums that did not contain

a reference to an "individual (Page 373): Insert reference to "individual" in the definition.  
! Placement of law concerning credit agreements (Page 399): Move to Title 26 concerning Commercial Law.

Representative Foley and other Commission members expressed an interest in drafting a companion bill to address some of the unresolved issues that will remain in the Title 32 recodification bill. Representative Foley requested in addition that Mr. Tyler prepare a summary comparing the two conflicting ejectment and quiet title chapters that are currently in the Indiana Code.

Mr. Stieff said Senator Kenley had agreed to sponsor both the recodification and technical corrections bills.

#### **VII. NEXT MEETING**

The Commission agreed to meet at 1:30 p.m. November 1, 2001, in Room 233 of the State House, Indianapolis, Indiana, to finalize the recodification draft and the technical corrections bill.

#### **VIII. ADJOURNMENT**

The meeting was then adjourned by the Chairman at 2:40 p.m.

Attachment